

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:18-CV-00440-MOC-DSC**

**WESLEY E. DAYS and
PASHEENA DAYS,**

Plaintiffs,

vs.

**BAYVIEW LOAN SERVICING, LLC,
BANK NATIONAL ASSOCIATION, as
trustee, BAYVIEW OPPORTUNITY
FUND III A, U.S. BANK NATIONAL
ASSOCIATION, as trustee, BAYVIEW
OPPORTUNITY FUND IIIa GRANTOR
TRUST 2015-1 BENEFICIAL INTEREST
CERTIFICATES, SERIES 2015-1, U.S.
BANK NATIONAL ASSOCIATION, as
trustee, BAYVIEW OPPORTUNITY
MASTER FUND IIIa REMIC TRUST
2017-RN3, SN LOAN SERVICING
CORPORATION; NS163 LLC; LINEAR
MORTGAGE, LLC and MADISON
MANAGEMENT SERVICES, LLC,**

Defendants.

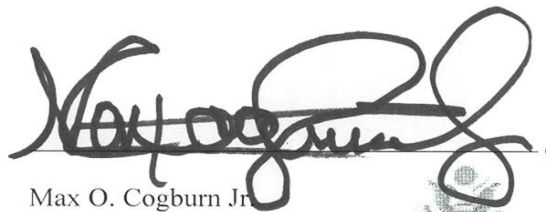
ORDER

THIS MATTER is before the Court on Motions to Dismiss Plaintiffs’ Second Amended Complaint for Failure to State a Claim, brought under Federal Rule of Civil Procedure 12(b)(6), and filed by the Bayview Defendants (Doc. No. 47) and the SN Defendants (Doc. No. 50). In support, Defendants extensively rely on supporting documents outside the complaint. (See, e.g., Doc. No. 48 at 11 (arguing “Plaintiffs did not continue to make loan payments” and “refused to execute any of the written loan modifications”); Doc. No. 51 at 3 (asserting “[t]he SN Defendants timely responded to [Plaintiffs’] complaints and offered the[m] a Loan modification, which the Plaintiffs refused”)). But on Rule 12(b)(6) dismissal motions, the Court generally considers only

the allegations on “the face of the complaint.” Waugh Chapel S., LLC v. United Food & Commercial Workers Union Local 27, 728 F.3d 354, 360 (4th Cir. 2013). In accordance with its obligation to liberally construe pro se complaints, the Court now enters the following Order.

IT IS, THEREFORE, ORDERED that the Motions to Dismiss Plaintiffs’ Second Amended Complaint for Failure to State a Claim, filed by the Bayview Defendants (Doc. No. 47) and the SN Defendants (Doc. No. 50), are denied pending further development of the record, and the Court will issue a ruling after discovery and the parties’ filing of summary judgment motions.

Signed: January 30, 2020

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written over a horizontal line.

Max O. Cogburn Jr.
United States District Judge